

Mail Stop Interference
P.O. Box 1450
Alexandria Va 22313-1450
Tel: 571-272-9797
Fax: 571-273-0042

Paper 49
Filed: 24 November 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

WILLIAM A. SEITZ, ROBERT E. GARFIELD,
ALEXANDRU T. BALABAN, AND RANDALL J. STEWART,
Junior Party
(U.S. Patents 6,103,275 and 7,048,951),

v.

NIGEL BENJAMIN, HAMISH DOUGALL,
AND ANTHONY ORMEROD
Senior Party
(U.S. Application 10/701,295).

Patent Interference No. 105,687 (MPT)
(Technology Center 1600)

Before SALLY GARDNER LANE, SALLY C. MEDLEY and
MICHAEL P. TIERNEY, *Administrative Patent Judges*.

Tierney, *Administrative Patent Judge*.

Judgment - Request for Adverse - Bd.R. 127(b)

1 Junior Party Seitz filed a Notification of Common Ownership, which
2 notified the Board that Nioxx, LLC, the assignee of Seitz's patents now
3 owns both the Seitz patents and the involved Benjamin application.
4 (Paper 42). The Board issued an Order to Show Cause requiring Seitz
5 (Nioxx) to explain why this interference should be maintained. (Paper 43).
6 Seitz's response to the Order requests that:

- 7 (1) Adverse judgment be entered against the involved Seitz '951
8 patent; and
9 (2) Adverse judgment be entered against the involved Benjamin
10 application claims, claims 28, 30 and 31.
11 (Paper 45, 1:1-4).

12 Seitz's request for entry of adverse judgment is GRANTED.
13 Accordingly, it is:

14 ORDERED that judgment as to the subject matter of Count 2
15 (Paper 25 at 2) is entered against Seitz, U.S. Patent 7,048,951 and Benjamin,
16 U.S. Application 10/701,295.

17 FURTHER ORDERED that Benjamin's involved claims 28,
18 30 and 31 are FINALLY REFUSED, 35 U.S.C. § 135(a);

19 FURTHER ORDERED that Seitz's involved '951 claims 1-35
20 are CANCELLED, 35 U.S.C. § 135(a);

21 FURTHER ORDERED that the parties shall note the
22 requirements of 35 U.S.C. § 135(c) and Bd. R. 205; and

1 FURTHER ORDERED that a copy of this judgment be
2 entered in the administrative records of the involved Benjamin application
3 and Seitz's '275 and '951 patents.

cc (via electronic mail)

Email CGHOLZ@OBLON.COM

Email LCHWANG@JW.COM

Email JKELLY@OBLON.COM